United Nations S/2017/963

Security Council

Distr.: General
17 November 2017

Original: English

Report of the Secretary-General on progress in the implementation of the political agreement of 31 December 2016

1. The present report covers developments in the Democratic Republic of the Congo since 29 September 2017 and is submitted pursuant to Security Council resolution 2348 (2017), in which the Council requested the Secretary-General to update it in writing every 45 days on political and technical progress in and obstacles to the implementation of the Comprehensive and Inclusive Political Agreement signed on 31 December 2016.

I. Key political developments related to the implementation of the agreement

National developments

2. Challenges related to the implementation of the political agreement of 31 December 2016 persisted throughout the reporting period. The broad consensus among key political actors that had underpinned the signing of the agreement continued to erode, as clearly demonstrated by the persistent disagreement and suspicions between the ruling presidential majority and the opposition platform, the Rassemblement des forces politiques et sociales de la République démocratique du Congo acquises au changement, regarding the establishment and functioning of the National Council for Monitoring the Agreement and the Electoral Process, the implementation of the confidence-building measures envisaged in the agreement, and the electoral calendar.

3. Discussions have been centred on the notion that elections will not be held before the end of 2017, as envisaged in the 31 December 2016 agreement. This has increased political uncertainty in a deteriorating socioeconomic, human rights and humanitarian context and a political climate marked by the utilization of increasingly politicized discourse by armed groups, particularly in the Kivu Provinces.

4. Proceedings of the new ordinary session of the National Assembly, which commenced on 15 September, have been impeded on several occasions by disagreements between the ruling majority and the opposition on issues related to the political and security situation and the electoral process. From 6 October to 1 November, opposition members of Parliament suspended their participation in plenary sessions of the Assembly, with the presidential majority using incidental motions to block no-confidence motions against the Vice Prime Minister and Minister of the Interior and Security and the Minister of Justice, both of whom are part of the ruling majority. On 20 October, opposition members of Parliament submitted a

Please recycle

petition against the Speaker of the National Assembly, Aubin Minaku, accusing him of being partial and undermining parliamentary oversight. On 21 October, the petition was blocked through an incidental motion. The Speaker suggested that the question of whether incidental motions could block motions of no confidence should be resubmitted to the Constitutional Court. In 2016, the Court had declared itself incompetent to rule on this matter, arguing that it pertained to the internal rules and regulations of the Assembly.

5. In meetings with civil society representatives in Kinshasa on 10 October and opposition members on 11 October, the President of the Independent National Electoral Commission, Corneille Nangaa, stated that 504 days would be required to prepare for elections once voter registration was completed in January 2018. Between 12 and 16 October, a number of civil society organizations and opposition groups, including the Mouvement de libération du Congo (MLC), the Rassemblement and the Union pour la nation congolaise (UNC) condemned Mr. Nangaa's statement and urged the Commission to hold elections in 2018 shortly after the completion of the voter registration process. The Chair of the Rassemblement, Félix Tshisekedi, in remarks to the press, reiterated his call for a political transition without the President of the Democratic Republic of the Congo, Joseph Kabila, and for a restructuring of the Commission. In a letter submitted to the National Assembly on 12 October, President Kabila urged the Assembly to consider several bills under urgent procedure, including the draft bill on the National Council for Monitoring the Agreement and the Electoral Process, the revised electoral law and a bill on public order management.

6. The second tripartite meeting among the Independent National Electoral Commission, the National Council for Monitoring the Agreement and the Electoral Process and the Government to evaluate the electoral process was held in Kinshasa from 14 to 18 October. The final communiqué of the meeting, issued on 18 October, urged the Commission and the Government to bring in-country voter registration to a conclusion and recommended that the Commission begin the registration of members of the diaspora for the presidential elections. The communiqué also encouraged the Government to continue financing the electoral process; thanked external partners for their technical and logistical support and called upon them to provide financial support for the elections in line with the Democratic Republic of the Congo electoral support project managed by the United Nations Development Programme (UNDP); and urged the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to work together with the Commission in determining logistical support requirements. In addition, the communiqué took note of the pre-electoral phases after the completion of voter registration and requested that the Commission publish a realistic electoral calendar, in line with the Constitution and the 31 December 2016 agreement.

7. On 23 October in Kinshasa, the President of UNC, Vital Kamerhe, issued a communiqué announcing the party's decision to withdraw its representative Pierre Kangudia Mbayi, Minister of State in Charge of the Budget, from the Government. Mr. Kamerhe stated that the decision had been made in protest of the delays in the publication of the electoral calendar and the "inevitable postponement" of the elections until after December 2017, in violation of the 31 December 2016 agreement. On 24 October, in remarks to the press, Mr. Minaku questioned the rationale behind Mr. Kamerhe's decision, noting that UNC, as a party to the negotiations leading to the signing of the agreements of 18 October and 31 December 2016, was aware of the possibility that the elections might be postponed until after 2017. On the same date, at a press conference in Kinshasa, Mr. Mbayi rejected the decision of UNC, arguing that his resignation could lead to a crisis in the Government and weaken opposition ministers.

8. On 30 October, civil society organizations staged protests in several cities across the Democratic Republic of the Congo demanding that President Kabila step down by December 2017. In Goma, the protests turned violent, resulting in the deaths of 3 civilians and 2 Congolese National Police officers, the wounding of 15 civilians and 4 members of national security forces, and the arrest of 37 protesters.

9. On 5 November, at a press conference in Kinshasa, Mr. Nangaa announced that, in keeping with the relevant provisions of the 31 December 2016 agreement, presidential and legislative national and provincial elections would be held on 23 December 2018. He noted that the support of international partners would be required in order to meet the deadlines for holding the elections. Mr. Tshisekedi rejected the electoral calendar, arguing that it violated the Constitution and the agreement, and called on the people to remove President Kabila from power. The former Governor of Katanga Province, Moïse Katumbi, and the Secretary-General of MLC, Eve Bazaiba, rejected the calendar, describing it as provocative and non-consensual. Mr. Minaku called on all the political stakeholders to strive to meet the electoral deadlines and argued that the electoral calendar published by the Independent National Electoral Commission was in line with the agreement, which provided for the possibility of postponing elections until after December 2017 following a joint assessment of the electoral process by the Commission, the National Council for Monitoring the Agreement and the Electoral Process and the Government. On 7 November, the Chairperson of the African Union Commission, Moussa Faki Mahamat, urged all Congolese stakeholders to play their part in ensuring strict respect for the electoral calendar.

Regional developments

10. Regional actors continued to engage with regard to the situation in the Democratic Republic of the Congo, in support of efforts to bridge the divides among the signatories to the 31 December 2016 agreement. From 28 September to 1 October, Mr. Mahamat visited the Democratic Republic of the Congo, meeting with representatives of the relevant Congolese institutions and opposition members signatories to the agreement. He encouraged his interlocutors to overcome their disagreements in order to promote an environment conducive to a peaceful and consensual electoral process, in line with the Constitution and the agreement. He committed himself to strengthening the support provided by the African Union, in coordination with all relevant national and international actors. Mr. Mahamat's visit was followed by a visit by the African Union Peace and Security Council to the country from 22 to 26 October.

11. On 15 October, the President of South Africa, Jacob Zuma, visited Kinshasa. Presidents Kabila and Zuma, in a joint communiqué, reiterated their support for the decisions made at the thirty-seventh summit of the Southern African Development Community (SADC). In the final communiqué of the summit, SADC Heads of State and Government had, inter alia, taken note of the requirement to postpone elections in the Democratic Republic of the Congo until after December 2017.

12. On 19 October, the Heads of State and Government of the countries signatory to the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region held the eighth high-level meeting of the Regional Oversight Mechanism in Brazzaville. The final communiqué of the meeting noted that, despite delays in its implementation, the 31 December 2016 political agreement remained the viable framework for ending the crisis in the Democratic Republic of the Congo and underlined the need to implement the confidence-building measures envisaged therein. The communiqué commended the significant progress achieved in the voter registration process, underscored the need for the early publication of a consensual electoral calendar and an electoral budget, and encouraged the

Government to ensure the adoption of the requisite electoral legislation. In addition, it welcomed the decision of SADC to appoint a special envoy to support the electoral process in the Democratic Republic of the Congo, and also welcomed the outcome of the meeting on the country that had been held on the margins of the United Nations General Assembly on 19 September.

II. Key developments related to the implementation of the agreement

Electoral developments

13. The Independent National Electoral Commission continued to make progress towards the finalization of voter registration with the start of registration in the remaining areas, namely, Kasai and Kasai Central Provinces and two territories of Lomami Province. MONUSCO and UNDP continued to provide support for the process.

14. As at 24 October, 60 per cent of registration centres were operational (registration centres have to remain open for 90 days). As at 10 October, the Independent National Electoral Commission had reported the registration of more than 42 million potential voters countrywide. Women represent 47 per cent of the currently registered electorate.

Restrictions on political space and violence as they relate to the implementation of the agreement in the electoral context

15. MONUSCO continued to document violations of civil and political rights as well as fundamental freedoms during the reporting period. In September 2017, the United Nations Joint Human Rights Office documented 112 violations, bringing to 708 the number of human rights violations documented since the beginning of 2017 with regard to restrictions of democratic space. State agents continue to be responsible for most of the most recent violations, including 52 by the Congolese National Police, 27 by the Armed Forces of the Democratic Republic of the Congo, 10 by the National Intelligence Agency and 9 by political/administrative authorities. Violations consist mainly of arbitrary arrests and detentions and violations of the rights to the freedoms of opinion, expression and peaceful assembly. Seventy-seven human rights defenders and six journalists were victims of human rights violations. Most of the perpetrators of such violations continue to benefit from impunity, with no significant follow-ups or convictions in these cases recorded.

Confidence-building measures

16. Progress achieved in the implementation of the confidence-building measures remained insufficient. On 22 and 23 October, in the context of the visit of Felix Tshisekedi to Lubumbashi, Haut-Katanga Province, the Congolese National Police and the Armed Forces of the Democratic Republic of the Congo arrested approximately 80 militants, including 6 women and 50 members of the Union pour la démocratie et le progrès social, at the headquarters of the opposition party in that city. The Mayor of Lubumbashi had not authorized any activity in relation to the visit, including meetings with local militants of the Rassemblement. In a press release issued on 23 October, my Special Representative condemned those arrests, expressed deep concern about the ongoing acts of intimidation against opposition members, called for the immediate and unconditional release of those arbitrarily arrested, and reminded the Congolese authorities of their obligation to respect the fundamental freedoms and civil and political rights of all persons, in accordance with the Constitution and the international obligations of the Democratic Republic of the Congo. On 24 October, all those arrested were released, including 32 persons on bail.

17. The Congolese authorities continue to enforce the general ban on opposition demonstrations that has been in place since September 2016. Such prohibitions were strengthened during the reporting period in several localities, including Bunia, Ituri Province; Mbuji-Mayi, Kasai Oriental Province; and Lubumbashi. On 29 September, authorities in Ituri Province prohibited a demonstration by the civil society platform Collectif d'actions de la société civile with respect to the publication of the electoral calendar. On 30 September, the Congolese National Police arbitrarily arrested 49 members of the Collectif in Goma and Kisangani who had been gathering in front of the Independent National Electoral Commission. The 16 persons arrested in Kisangani were released after being detained for 12 hours by the Congolese National Police, while the 33 persons arrested in Goma were released on 3 October. As at 27 October, 133 political prisoners and prisoners of opinion were held in detention facilities across the country, more than double the number of individuals in the same category detained a year ago.

III. Good offices efforts for the implementation of the agreement and regional developments

18. In pursuit of his good offices mandate in support of the implementation of the 31 December 2016 agreement, my Special Representative continued to hold separate meetings with key stakeholders, including the Government, the National Council for Monitoring the Agreement and the Electoral Process, the Independent National Electoral Commission, the Rassemblement, the Group of Seven, the presidential majority and civil society. My Special Representative also continued to engage with representatives of the African Union, the European Union, the International Organization of la Francophonie, SADC, the Economic Community of Central African States and key regional actors. Discussions revolved around ways to promote the implementation of the agreement to pave the way for the holding of peaceful and credible elections as soon as possible. In particular, discussions were focused on the need for the swift publication of the electoral calendar, the adoption of the requisite legislation on elections and the National Council, the funding of the electoral process, the implementation of confidence-building measures, respect for fundamental freedoms, and the need for enhanced coordination within the international community in support of the electoral process.

IV. Observations

19. Despite the mounting levels of disagreement between its signatories regarding its implementation, the political agreement of 31 December 2016 remains the framework guiding the political transition in the Democratic Republic of the Congo. This was most recently reaffirmed at the meeting of the Regional Oversight Mechanism held in Brazzaville and continues to be acknowledged by Congolese interlocutors across the political spectrum. At this critical juncture, with the end of 2017 a few weeks away, a renewed political commitment is required to rebuild trust among all political actors, and between the political class and Congolese citizens, in order to identify a consensual way forward, in line with the agreement and the Constitution. I remind the national authorities of the great responsibility that they bear in demonstrating continued political will and ensuring that the agreement is respected. The opposition has an important role in finding solutions to the political crisis and preserving stability in the Democratic Republic of the Congo.

20. I welcome the efforts of regional partners, including the African Union and SADC, to promote inclusive dialogue on the implementation of the political agreement. I encourage regional actors to enhance their engagement in order to help

all Congolese stakeholders overcome their differences and ensure that the Congolese authorities prepare the ground for credible elections, in a timely manner, in line with the agreement and the aspirations of the Congolese people.

21. I have taken note of the calendar published by the Independent National Electoral Commission on 5 November 2017. While it is regrettable that the crucial polls have been postponed, yet again, I reaffirm the availability of the United Nations to work in coordination with the African Union, the European Union, the International Organization of la Francophonie and SADC to establish an independent team of experts to provide technical support to the Commission as required in support of this process. I call on the Government, the presidential majority and the opposition to play a constructive role in meeting the deadlines set out in the electoral calendar.

22. I welcome the progress achieved on voter registration and urge the Independent National Electoral Commission to bring this process to a successful conclusion within the earliest possible time frame. The opening of the remaining registration centres in the Kasai region as soon as possible will be a key step towards completing this process in a timely manner. I call upon the Government and Parliament to ensure the adoption of the electoral legislation and urge the Government to continue to disburse the necessary financial allocations to the Commission in a timely manner. I also encourage the international community to provide adequate support for the electoral process.

23. I urge the Government to fully implement the confidence-building measures set out in the 31 December 2016 political agreement, and to respect all the political rights and freedoms of Congolese citizens enshrined in the Congolese Constitution and in accordance with the international obligations of the Democratic Republic of the Congo. Since the signing of the agreement, 64 political prisoners have been released. However, I am deeply concerned that Congolese citizens continue to be arbitrarily arrested and illegally detained for expressing their political opinions. At least 133 of them remain in detention for such reasons. I stress the importance of releasing all persons detained arbitrarily, including human rights defenders and opposition members. I am concerned that journalists, political opponents and civil society activists remain subject to intimidation and violence in relation to their political activities.

24. I call on the Government to ensure that all Congolese citizens, regardless of their political affiliation, can participate freely in public affairs and fully exercise their human rights and fundamental freedoms, in particular the freedoms of expression and peaceful assembly. I also call on the relevant authorities to ensure that all violations of such rights and freedoms are brought to an immediate halt and that the perpetrators are held to account. Respecting fundamental rights and freedoms, and combating impunity, are of paramount importance to create the conditions necessary for the holding of peaceful and credible elections.

25. Bringing the electoral process to a successful conclusion in a consensual and timely manner and in line with the 31 December 2016 agreement is essential to preserve the gains achieved in the Democratic Republic of the Congo over the past decade. I therefore call on all Congolese stakeholders to rebuild trust among themselves, instil confidence in the political process and place the interests of the country and the people at the forefront. As the end of the year approaches, it is crucial that a consensual way forward, which places peace and stability in the Democratic Republic of the Congo at the centre, be found without further delay.